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Attorney Docket # 3401-125RCE

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Mark FREIER et al.

Serial No.: 10/002,523

Filed: November 2, 2001

For: Endoscopic Sample Taker for Cartilage Material

Examiner: Thaler, Michael H.
Group Art: 3731

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Alfred W. Froeblich

Name of applicant, assignor or Registered Representative

Signature

August 7, 2007
Date of Signature

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APPELLANT'S REPLY BRIEF

SIR:

This is appellant's reply brief in response to the Examiner's Answer mailed June 7, 2007 in accordance with 37 C.F.R. §41.41.

The Examiner's Answer makes new points of argument within section (9) Grounds of Rejection and section (10) Response to Argument.

The Examiner considers the tongue of Salerno to be the elements indicated by reference characters 4, 5, and 12 (see page 4, 7th line from the bottom; and the middle paragraph on page 8, of the Examiner's Answer). The Examiner further states that the parts indicated by reference characters 4 and 5 are thin and therefore a strip. However, the part of Salerno indicated by reference character 4 is a hollow semi-sphere or scoop which is sufficiently sturdy to maintain its

shape during use. Accordingly, the tongue 4, 5, 12 of Salerno can not be considered to be the "thin strip" recited in independent claim 17.


The Examiner further states that the tongue of Salerno slides along a longitudinal length of the tongue because it slides along the longitudinal length of the part indicated by reference character 12 (see page 8, lines 7-9 of the Examiner's Answer). However, the tongue of Salerno (as defined by the Examiner) pivots about a pin 9 and therefore fails to disclose teach or suggest "slide along a longitudinal length of said tongue" as recited in independent claim 8 or "axially displacing the thin strip along the longitudinal length of the thin strip" as recited in independent claim 17.

CONCLUSION

For the foregoing reasons, and for all the reasons listed in Appellant's Brief on Appeal, it is respectfully submitted that appellants' claims are not rendered obvious by and are, therefore, patentable over the art of record, and the Examiner's rejections should be reversed.

Respectfully submitted,
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